



**HUMAN RESOURCES OFFICE
TECHNICIAN / AGR ADMINISTRATIVE INSTRUCTION**

Number: 04-61

26 October 2004

ADMINISTRATIVE CLAIMS FOR ANNUAL LEAVE RESTORATION
No Expiration

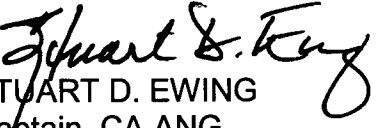
1. Public Law 106-554, enacted on 21 December 2000, changed the way military leave was processed. Prior to enactment, military leave was chargeable in whole day increments and periods of non-duty (such as weekends and holidays) were also chargeable. With the new law, military leave is now charged in one-hour increments and **leave will not be charged for periods of non-duty.**
2. The Defense Civilian Pay System (DCPS) was modified to accommodate the new law with the pay period beginning 9 September 2001. Prior to that time, military leave continued to be charged in whole day increments, regardless of the number of hours used and reported on Time and Attendance Reports. When the DCPS system was modified, military leave balances as of 21 December 2000 were converted from days to hours. The number of hours the technician actually used from 21 December 2000 through 8 September 2001 was subtracted from their balance. If the technician used more military leave than was available, the system automatically charged the leave to the technician's annual leave balance or leave without pay.
3. A recent decision in *Butterbauch v. Department of Justice*, the U.S. Court of Appeals for the Federal Circuit ruled that, pursuant to 5 U.S.C. 6322, employees were required to take military leave only on days on which they were required to work and that agencies should have allowed 15 "**workdays**" of military leave instead of 15 "**calendar**" days. Therefore, the court ruled that agencies should not have charged military leave for non-workdays that occurred within the period of military duty. Some agencies charged their employees military leave for non-workdays within their period of military duty and it caused them to exceed their allowance of 15 days of military leave each fiscal year. As a result, employees were forced to take annual leave or leave without pay to complete their annual training.
4. Under the Barring Act of 1940, a leave claim against the Government must be received within six years after the claim occurs. For example, if a technician files a claim on 15 January 2005, the Directorate for Human Resources will consider any period of military service between 15 January 1999 and 21 December 2000 (date 5 U.S.C. 6323(a) was amended), in crediting annual leave. Technicians who were charged military leave for non-workdays may submit a written request (claim) for leave restoration to the Directorate for Human Resources. The burden of proof supporting restoration of leave is on the technician and the following information must accompany each claim:
 - a. A copy of orders for each period of active duty;
 - b. Certification of attendance;
 - c. Leave and Earnings Statements (LES) or other documentation indicating military leave was charged for non-workdays.

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SUBJECT: Administrative Claims for Annual Leave Restoration

5. Technicians will be credited for one day of annual leave for each non-workday occurring within a period of active duty for which he/she was charged military leave. A maximum of four days of annual leave may be credited for each fiscal year. Any annual leave credited as a result of a technician's claim will be placed in a restored leave account in accordance with 5 U.S.C. 6304(d)(1)(a) and the restored leave must be used by the technician by the end of the leave year in progress two years after the date of restoration.

6. If you need additional information, contact Nancy Hamilton, Human Resources Specialist, at CAGNET 63411, DSN 466-3411 or (916) 854-3411.


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